



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

NOTICE OF ALLOWANCE AND ISSUE FEE DUE

00027123
NIXON AND VANDENBYE
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BURLINGTON VT 05401-4714

APPLICATION NO.	FILING DATE	TOTAL CLAIMS	EXAMINER AND GROUP ART UNIT	DATE MAILED
08/840-069	04/24/97	029	SUNDARAM, 1 2255	12/21/99
First Named Applicant	AFILANT, 35 USC 154(b) term ext. = 0 Days.			

TITLE OF INVENTION: SELECTIVE POLARIZATION MATCHING FILTER FOR TELEGRAPHING AND MAXIMIZING RAPID DIELECTROKINESIS RESPONSE

ATTY'S DOCKET NO.	CLASS-SUBCLASS	BATCH NO.	APPLN. TYPE	SMALL ENTITY	FEE DUE	DATE DUE
2 2299-4	324-452.000	608	UTILITY YES	\$605.00	03/21/00	

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED.

THE ISSUE FEE MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED.

HOW TO RESPOND TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

- A. If the status is changed, pay twice the amount of the FEE DUE shown above and notify the Patent and Trademark Office of the change in status, or
- B. If the status is the same, pay the FEE DUE shown above.

If the SMALL ENTITY is shown as NO:

- A. Pay FEE DUE shown above, or
- B. File verified statement of Small Entity Status before, or with, payment of 1/2 the FEE DUE shown above.

II. Part B-Issue Fee Transmittal should be completed and returned to the Patent and Trademark Office (PTO) with your ISSUE FEE. Even if the ISSUE FEE has already been paid by charge to deposit account, Part B Issue Fee Transmittal should be completed and returned. If you are charging the ISSUE FEE to your deposit account, section "4b" of Part B-Issue Fee Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give application number and batch number. Please direct all communications prior to issuance to Box ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

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Patent and Trademark Office**

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Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/840,069 04/24/97 AFILANI

T 2299-4

EXAMINER

MM12/1221

NIXON AND VANDERHYE
8TH FLOOR
1100 NORTH GLEBE ROAD
ARLINGTON VA 22201-4714

SUNDAR	ART UNIT	PAPER NUMBER
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2858

DATE MAILED:

12/21/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Notice of Allowability

Application No.
08/840,069

Applicant(s)
Thomas Afilani

Examiner
T. R. Sundaram

Group Art Unit
2858



All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance and Issue Fee Due or other appropriate communication will be mailed in due course.

☒ This communication is responsive to July 6, 1999

☒ The allowed claim(s) is/are 1-29

☒ The drawings filed on Apr 24, 1997 are acceptable.

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

A SHORTENED STATUTORY PERIOD FOR RESPONSE to comply with the requirements noted below is set to EXPIRE **THREE MONTHS** FROM THE "DATE MAILED" of this Office action. Failure to timely comply will result in ABANDONMENT of this application. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

☐ Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL APPLICATION, PTO-152, which discloses that the oath or declaration is deficient. A SUBSTITUTE OATH OR DECLARATION IS REQUIRED.

☐ Applicant MUST submit NEW FORMAL DRAWINGS

☐ because the originally filed drawings were declared by applicant to be informal.

☐ including changes required by the Notice of Draftsperson's Patent Drawing Review, PTO-948, attached hereto or to Paper No. _____

☐ including changes required by the proposed drawing correction filed on _____, which has been approved by the examiner.

☐ including changes required by the attached Examiner's Amendment/Comment.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the reverse side of the drawings. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

☐ Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Any response to this letter should include, in the upper right hand corner, the APPLICATION NUMBER (SERIES CODE/SERIAL NUMBER). If applicant has received a Notice of Allowance and Issue Fee Due, the ISSUE BATCH NUMBER and DATE of the NOTICE OF ALLOWANCE should also be included.

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 7 and 9

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

☐ Interview Summary, PTO-413

☐ Examiner's Amendment/Comment

☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

☒ Examiner's Statement of Reasons for Allowance

Art Unit: 2858

DETAILED ACTION

Earlier Election/Restriction

1. In an earlier Office Action (paper # 4), the prior Examiner had categorized the 29 claims in the application as being comprised of three distinct species, namely: Group I - claims 1-18; Group II - claims 19-21; and Group III - claims 22-29.

Applicant was required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim was finally held to be allowable.

Applicant was advised that a reply to the requirement must include an identification of the species that is elected consonant with the requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Applicant was also advised that upon the allowance of a generic claim, he would be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141.

In paper #5, the Applicant elected, without traverse, the prosecution of Group III claims.

In his response (paper # 10) to the First Office Action on Merits (paper # 6) on claims 22-29, however, the Applicant has amended (among others) independent claims 1, 19, 22 and 27, and has argued that claim 22 is generic to all species of the invention.

Art Unit: 2858

2. The present Examiner concurs with the Applicant that, as presently recited, claim 22 is generic to all species of the invention; he has further concluded (as will be explained presently) that claim 22 is allowable. Accordingly, the restriction requirement as to the encompassed species is hereby withdrawn and claims 1-21 are no longer withdrawn from consideration since all of these claims depend from or otherwise include each of the limitations of the allowed generic claim, claim 22. Thus, the present Office Action considers, on merits, claims 1-29, or all of the claims originally pending in the application.

3. In view of the above noted withdrawal of the restriction requirement as to the linked species, applicant is advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Information Disclosure Statement

4. The information disclosure statements filed January 8, 1999 and August 17, 1999 have been received and they have been placed of record in the application file.

Art Unit: 2858

Claim Allowance

5. As presently formulated, the independent claims 1, 19, 22 and 27 are deemed to be patentably distinct over prior art, since a polarization matching filter, encased in a filter housing with a specific structure, that generates an opposite polarization pattern from that of a to-be-detected-entity has not been found to be disclosed in any other prior art reference. Therefore, these claims, and their respective dependent claims, are deemed to be patentably distinct over prior art, and thus allowable. Thus, claims 1-29 are allowed.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance:

As noted above, the subject matter of the independent claims has not been found in any prior art reference. Two points need to be noted herein, however. First, the Applicant has recently been granted two other patents on electrokinetic detection of various entities. Since the Examiner believes that these two patents should be referenced in the present patent, a Form PTO-892, listing these patents is attached.

Second, from the references supplied in the Applicant's own Information Disclosure Statement, there appears to be some question as to whether the electrokinetic effect would be strong enough to enable the at-a-distance detection claimed in the subject inventions.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

Art Unit: 2858

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

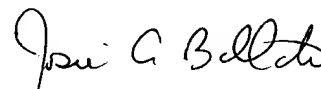
Conclusion

Any inquiry concerning this communication should be directed to Dr. T. R. (Joe) Sundaram at telephone number (703) 308-6821.

T. R. S. — 

TRS

December 14, 1999


Josie Ballato
Supervisory Patent Examiner
Technology Center 2800

12/16/99